

REMARKS

The Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 6-8, 14, 19, 26, 30 and 48 are currently being amended.

Claims 2, 5, 21, 34 and 37-47 are being canceled.

New claims 49 to 52 are being added.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 3-4, 6-20, 22-33, 35-36, and 48-52 are now pending in this application.

Claim Rejections – 35 U.S.C. § 102

Rejection of Independent Claims 1, 19, 26, and 30 in view of Tsukuda

Independent claims 1, 19, 26 and 30 and various dependent claims were rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent Publication No. 2003/0124226 (Tsukuda). The Applicants respectfully submit that the present claims are not anticipated by nor taught by the disclosure of Tsukuda. Tsukuda teaches the use of purified or enzyme modified lecithins to modify the surface properties of soy protein. As established in the present application, the physical properties of such lecithins is substantially different from a number of the physical properties of hydroxylated lecithin. Thus inclusion of purified or enzyme modified lecithins taught by Tsukuda would not be expected to confer the same advantages or properties as the compositions recited in the present claims, as amended.

Rejection of Independent Claims 1, 19, 26, and 30 in view of Akasaka

Independent claims 1, 19, 26 and 30 and various dependent claims were rejected under 35 U.S.C. § 102(b) as being unpatentable over JP -126036 (counterpart of U.S. Patent No. 4,608,203; "Akasaka"). Akasaka teaches the desirability of using lecithin together with an oil or fat, stating that when the surfactant is used alone it can lead to the formation of undissolved lumps of the material to be dispersed (see, e.g., col. 6, lines 57-64 of U.S. '203 counterpart). In contrast, the dispersible combinations recited in the present claims employ hydroxylated lecithins having a very low amount oil present as part of the lecithin surfactant material (and, correspondingly, the lecithin material employed in the present composition have a higher HLB value).

Rejection of Independent Claims 1, 19, 26, 30 and 48 in view of Shapiro

Independent claims 1, 19, 26, 30 and 48 and various dependent claims were rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 3,988,511 (Shapiro). The Applicants respectfully submit that the present claims, which are directed to the use of a hydroxylated lecithin material having a very low oil content (and, inherently, a relatively high HLB value) are not anticipated by nor taught by the disclosure of Shapiro. As with Akasaka, Shapiro teaches the desirability of using lecithins in an oily base for the preparation of water dispersible protein products (see, e.g., col. 3, lines 52-63). As noted above, such oil containing lecithin materials will inherently have a lower HLB value than the lecithin materials recited in the present claims. Thus, Shapiro does not teach or suggest the particular lecithin materials recited in the present claims.

It is respectfully submitted that independent claims 1, 19, 26, 30 and 48 and the various dependent claims that depend therefrom are not anticipated by Tsukuda, Akasaka and/or Shapiro. Accordingly, withdrawal of the rejections under 35 U.S.C. § 102(b) is respectfully requested.

Claim Rejections – 35 U.S.C. § 103(a)

Rejection of Independent Claims 1, 19, 26, 30 and 48 over Tsukuda or Akasaka in view of Shapiro, Akoh, and/or Burdock

Independent Claims 1, 19, 26, 30 and 48 or various claims which depend therefrom stand rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations Tsukuda or Akasaka in view of Shapiro, Akoh, and/or Burdock. Neither Akoh or Burdock overcome the failures in the teachings of the primary references discussed above. Accordingly, it is respectfully submitted that the combinations of references recited in these rejections fail to establish a prima facie case of obviousness of independent Claims 1, 19, 26, 30 and 48.

Accordingly, the Applicants respectfully submit that the subject matter recited in the present independent claims and the claims which are dependent thereon would not have been obvious to a person of skill in the art and are patentable. The Applicants request withdrawal of the rejections of the claims under 35 U.S.C. § 103(a).

* * *

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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